

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

BCL-CRE 3 SUB NORTH LLC, an Illinois	)	
limited liability company,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No.
	)	
JEREMY JUST, an individual; JOSHUA	)	
GUTHARTZ, an individual;	)	
BRETT MERRILL, an individual; MATT	)	
WIDMAIER, an individual; and BRANDON	)	
KUBLANOW, an individual;	)	
	)	
Defendants.	)	

**COMPLAINT FOR BREACH OF GUARANTY**

Plaintiff, BCL-CRE 3 SUB NORTH LLC, an Illinois limited liability company by and through its undersigned attorneys, Jason B. Hirsh and Jamie L. Burns of Levenfeld Pearlstein, LLC, files this Complaint for Breach of Guaranty against Defendants, JEREMY JUST, an individual; JOSHUA GUTHARTZ, an individual; BRETT MERRILL, an individual; MATT WIDMAIER, an individual; and BRANDON KUBLANOW, an individual (collectively, “Defendants”), as set forth below.

**NATURE OF THE CASE**

1. This is an action for damages as a result of a breach of a Non-Recourse Carve-Out Guaranty, which guaranteed repayment under a Loan Agreement and Promissory Note, pursuant to which Plaintiff had agreed to loan TWP MH Columbia, LLC, a Tennessee limited liability company, \$1,232,044.00 to finance a project commonly known as 813 S. James Campbell Boulevard, Columbia, Tennessee. Despite the sale of the aforementioned property, Defendants have not repaid Plaintiff pursuant to the terms of the Guaranty.

### **THE PARTIES**

2. Plaintiff, BCL-CRE 3 Sub North LLC (“BCL”), is an Illinois limited liability company with its principal place of business in Northbrook, Illinois.

3. The sole member of BCL is BCL-CRE 3 LLC, an Illinois limited liability company. The members of BCL-CRE 3 LLC are BCL-Family LLC, an Illinois limited liability company, BCL-Operations, LLC, an Illinois limited liability company, and an Illinois trust. The members of BCL-Family LLC are two Illinois trusts and two individuals residing in Illinois. The members of BCL-Operations LLC are two individuals residing in Illinois.

4. Jeremy Just (“Just”) is an individual and, on information and belief, a resident of Nolensville, Tennessee.

5. Joshua Guthartz (“Guthartz”) is an individual and, on information and belief, a resident of Marblehead, Massachusetts.

6. Brett Merrill (“Merrill”) is an individual and, on information and belief, a resident of Brookhaven, Georgia.

7. Matt Widmaier (“Widmaier”) is an individual and, on information and belief, a resident of Atlanta, Georgia.

8. Brandon Kublanow (“Kublanow”) is an individual and, on information and belief, a resident of Atlanta, Georgia.

### **JURISDICTION AND VENUE**

9. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §1332(a) because of the diversity of citizenship between the parties as BCL is deemed a resident of Illinois, no Defendant is deemed a resident of Illinois, and because the amount in controversy exceeds \$75,000.00, exclusive of interest and costs. Additionally, Defendants consented and

submitted to the exclusive jurisdiction of courts having situs within the State of Illinois in the Guaranty hereinafter defined and described.

10. Venue is appropriate in this District as the Note hereinafter described and defined was deemed to be executed in Northbrook, Cook County, Illinois, and Plaintiff's principal place of business is in Cook County, Illinois, which is located in the Northern District of Illinois.

### **FACTUAL BACKGROUND**

11. On or about June 30, 2022, TWP MH Columbia, LLC ("TWP"), is a Tennessee limited liability company, entered into a Promissory Note (the "Note") with BCL-CRE 3 LLC ("Original Lender") in the amount of \$1,232,044.00 to finance a project known as 813 S. James Campbell Boulevard, Columbia, Tennessee (the "Project"). A true and correct copy of the Note is attached hereto and incorporated herein by reference as **Exhibit A**.

12. In connection therewith, Original Lender and TWP also entered into a Loan Agreement dated June 30, 2022, a true and correct copy of which is attached as **Exhibit B**.

13. In consideration for making the loan to TWP, on or about June 30, 2022, Just, Guthartz, Merrill, Widmaier and Kublanow (collectively, the "Guarantors") executed a Non-Recourse Carve-Out Guaranty (the "Guaranty") personally guaranteeing repayment of certain Guaranteed Obligations, including, but not limited to, the sale proceeds from the sale of all or any portion of the Project. A true and correct copy of the Guaranty is attached hereto and incorporated herein by reference as **Exhibit C**. The Note, Loan Agreement and Guaranty may hereinafter sometimes be referred to collectively as the "Loan Documents."

14. Thereafter, the Loan Documents were assigned by Original Lender to BCL.

15. On or about April 7, 2023, TWP sold the Project.

16. TWP is in default under the terms of the Loan Documents.

17. Specifically, TWP has violated section 2.2 of the Loan Agreement as it no longer has good and merchantable fee simple title to the Property in violation of section 2.1(a) of the Loan Agreement.

18. TWP has also violated section 9.1(a) of the Loan Agreement as it has failed to make payments under the Loan Documents since its last payment in March, 2023.

19. On information and belief, TWP has also violated section 6.9 of the Loan Agreement by permitting recordings against the Property and section 6.10 by making distributions to its members after the sale of the Property.

20. Guarantors did not pay BCL the sale proceeds upon the closing of the sale of the Project.

21. Given their failure to pay the sale proceeds to BCL, Guarantors are in default under the terms of the Guaranty as the payment of sale proceeds are a Guaranteed Obligation under section 1(e) of the Guaranty.

22. As of May 17, 2023, BCL was owed \$1,128,735.59 from Guarantors, broken down as follows:

Outstanding Principal:	\$ 1,083,789.00
March Interest Due:	\$ 12,006.58
March Late Fee:	\$ 600.33
April Interest Due:	\$ 18,418.69
April Late Fee:	\$ 920.93
May Interest Due (through 05/17):	\$ 13,000.05
Total Due:	\$ 1,128,735.59

23. Additionally, per diem interest will continue to accrue after May 17, 2023 at the default rate of \$722.22.

24. BCL is also entitled to its attorneys' fees and costs pursuant to the terms of the Guaranty, and specifically at section 13 thereof, and such amounts are requested herein.

**COUNT I**  
**Breach of Guaranty**

25. BCL incorporates and restates the allegations of the above paragraphs as if set forth fully in this paragraph.

26. The Guaranty is an enforceable contract.

27. BCL fully performed all obligations and conditions on its part under the Guaranty.

28. By failing to pay BCL the sale proceeds upon the sale of the Project, Guarantors, breached their agreement with Plaintiff.

29. Guarantors' breach caused damages to Plaintiff.

30. As a direct and proximate result of the breach, as of May 17, 2023, BCL was owed \$1,128,735.59 by Guarantors and interest continues to accrue.

31. BCL is also entitled to its attorneys' fees and court costs under the terms of the Guaranty, and such amounts are requested hereunder.

WHEREFORE, BCL-CRE 3 SUB NORTH LLC, requests that this Court enter judgment against, JEREMY JUST; JOSHUA GUTHARTZ; BRETT MERRILL; MATT WIDMAIER; and BRANDON KUBLANOW, jointly and severally, and award damages of \$1,128,735.59 as of May 17, 2023, plus interest that continues to accrue through the date of judgment and attorneys' fees and costs, and such other and further relief as this Court may deem proper.

Dated: May 22, 2023

BCL-CRE 3 SUB NORTH LLC

By: /s/ Jamie L. Burns  
One of Its Attorneys

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